IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

DENNIS A. FORBES,

Plaintiff,

v. **CIVIL ACTION NO. 1:24-00194**

WARDEN, FCI MCDOWELL,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and recommendation ("PF&R"). Magistrate Judge Tinsley submitted his proposed findings and recommendation on June 21, 2024. In that Proposed Findings and Recommendation, the magistrate judge recommended that this court deny plaintiff's motion for default judgment.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Judge Tinsley's Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985). Moreover, this court need not conduct a de novo review when a party "makes general and conclusory

objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Plaintiff filed objections to the Proposed Findings and Recommendation. The court has conducted a de novo review of the record as to those objections. See 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made.").

Magistrate Judge Tinsley recommended that plaintiff's motion for default judgment be denied because defendant was not in default. Plaintiff's objections do not really address this point but, instead, are concerned with the dismissal of his case. However, his case has not been dismissed nor has Magistrate Judge Tinsley recommended that it be. The PF&R only reaches the motion for default judgment; it does not address the merits of plaintiff's case.

Having reviewed the Findings and Recommendation filed by Magistrate Judge Tinsley, the court hereby **OVERRULES** plaintiff's objections. The court adopts the findings and recommendations contained in the PF&R. Accordingly, the court **DENIES** plaintiff's motion for default judgment and refers the matter back to Magistrate Judge Tinsley for further proceedings.

The Clerk is directed to forward copies of this Memorandum Opinion and Order to all counsel of record and to any unrepresented party.

It is **SO ORDERED** this 1st day of October, 2024.

ENTER:

David A. Faber
Senior United States District Judge